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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/621,619	07/21/2000	Steven D. Scherf	1364.1001-CIP2/RAG	4523

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER	
CHAWAN, VIJAY B	

ART UNIT	PAPER NUMBER
2654	

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/621,619	SCHERF ET AL.	
	Examiner	Art Unit	
	Vijay B. Chawan	2654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 May 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-46* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *14-18* is/are allowed.

6)☒ Claim(s) *1-3,11,19-22,25-33 and 39* is/are rejected.

7)☒ Claim(s) *4-10,12,13,23,24,34-38 and 40-46* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Allowable Subject Matter

1. Claims 14-18 are allowed over cited prior art.

2. Claims 4-10, 12-13, 23-24, 34-38, and 40-46 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 1-3, 11, 19-22, 25-33, and 39 rejected under 35 U.S.C. 102(a) as being anticipated by Foote ("Content-Based Retrieval of Music and Audio", Proceedings of the SPIE on Multimedia Storage and Archiving Storage II, Dallas Texas, November 3, 1997, pages 138-147).

As per claim 1, Foote teaches a method of searching for a match in a database of a plurality of records, where the records in the database correspond to files, comprising:

generating sample values for at least one portion of at least on selected file (section 3, tree based template generation); and,

determining at least one matching record in the database for the at least one selected file based on the sample values and an indication of an amount of data in the at least one selected file (section 3, tree based template generation).

As per claim 2, Foote teaches a method as recited in claim 1, wherein the files may be used to play back at least one of audio and video, wherein said method further comprises calculating approximate playback times for the files represented by the records in the database and for at least one selected file, and wherein said determining is based on the approximate play back times (section 3, tree based template generation, section 4).

As per claim 3, Foote teaches a method of searching for a match in a database of a plurality of records, where the records in the database correspond to recordings having at least one track comprising:

generating sample values for at least one segment of a selected recording. (section 3, tree based template generation);

calculating an approximate length of each track of each recording represented in the database and of the selected recording (section 3, tree based template generation); and,

determining at least one matching record in the database for the selected recording based on the sample values and the number and length of tracks of the

recordings represented in the database and the selected recording (section 3, tree based template generation).

As per claim 11, Foote teaches the method as recited in claim 3, further comprising receiving a query to search for a match between the selected recording and the records in the database, the query including the number of tracks and the length information for the selected recording (section 3, tree based template generation).

As per claim 19, Foote teaches a method of searching for a match in a database of a plurality of records, where the records in the database correspond to files of sampled digital data, comprising:

generating sample values for at least one portion of at least one selected file output to a user at a first location by user equipment (section 3, tree based template generation);

generating a query based on the sample values, by the user equipment (section 3, tree based template generation); and,

sending the query from the user equipment to a server at a second location where the database is stored, to search for at least one matching record (section 3, tree based template generation).

As per claim 20, Foote teaches a method as recited in claim 19, further comprising sending from the server to the user equipment, additional information stored in the at least one approximately matching record and not included in the at least one selected file (section 3, tree based template generation).

As per claim 21, Foote teaches a database system, comprising:

a storage unit storing a database of records including existing sample values for recordings corresponding to the records (section 3, tree based template generation); and,

a processing unit, coupled to said storage unit, executing instructions that generate identifying sample values for a selected recording and determine at least one matching record in the database for the selected recording based on an indication of play back time of the selected recording and comparison of the identifying sample values with the existing sample values in the database (section 3, tree based template generation).

As per claim 22, Foote teaches a database system, comprising:

a storage unit storing a database of records including existing sample values for recordings corresponding to the records and information indicating length and number of identified segments of the recordings (section 3, tree based template generation); and,

a processing unit, coupled to said storage unit, executing instructions that generate identifying sample values and approximate length information for a selected recording and determine at least one matching record in the database for the selected recording based on a comparison of the identifying sample values with the existing sample values in the database, and the approximate length information and a number of identified segments in the selected recording and the recordings corresponding to the records in the database (section 3, tree based template generation).

As per claim 25, Foote teaches a database system comprising:

a storage unit storing a database of records including existing sample values for recordings corresponding to the records (section 3, tree based template generation);

a communication unit, coupled to said storage unit, to receive a query to search for a match between a selected recording and the records in the database, the query including the number of segments and the length information for the selected recording (section 3, tree based template generation); and,

a processing unit, coupled to said storage unit, executing instructions that generate identifying sample values for a selected recording and determine at least one matching record in the database for the selected recording by comparing the identifying sample values with the existing sample values in the database (section 3, tree based template generation).

As per claim 26, Foote teaches a database system as recited in claim 25, wherein the recordings corresponding to the records in the database and the selected recording each contain at least an audio portion and the number of segments are the number of tracks in the audio portion (section 3, tree based template generation).

As per claim 27, Foote teaches a database system as recited in claim 26, wherein the recordings are stored on removable storage media possessed by the user (section 3, tree based template generation).

As per claim 28, Foote teaches a database system as recited in claim 26, wherein the recordings are digital files stored on mass storage accessible by a listener of the selected recording (section 3, tree based template generation).

As per claim 29, Foote teaches the database system of claim 25, wherein said processing unit, storage unit and communication unit are at a first location, and wherein said database system further comprises, equipment possessed by a user at a second location, remote from the first location, to generate the query and play the selected recording, and a communication network coupling said equipment and said communication unit at least for sufficient time to send the query from said equipment to said communication unit (section 3, tree based template generation).

As per claim 30, Foote teaches the database system of claim 30, wherein said communication unit sends to the equipment via said communication network additional information stored in the at least one approximately matching record and not included in the selected recording (section 3, tree based template generation).

As per claim 31, Foote teaches at least one computer program stored on a computer-readable medium, embodying a method of searching for a match in a database of a plurality of records, where the records in the database correspond to files, comprising: generating sampled values for at least one segment of at least one selected file , and determining at least one matching record in the database for the at least one selected file based on the sampled values and an indication of an amount of data in the at least one selected file (section 3, tree based template generation).

As per claim 32, Foote teaches the at least one of the computer program of claim 31, wherein the files may be used to play back at least one of audio and video, wherein the method further comprises calculating approximate playback times for the files represented by the records in the database and for the at least one selected file, and

wherein said determining is also based on the approximate playback times (section 3, tree based template generation).

As per claim 33, Foote teaches at least one computer program stored on a computer readable medium, embodying a method of searching for a match in a database of a plurality of records, where the records in the database correspond to recordings having at least one track, comprising:

generating sample values for at least one segment of a selected recording (section 3, tree based template generation);

calculating an approximate length of each track of each recording represented in the database and of the selected recording (section 3, tree based template generation); and,

determining at least one matching record in the database for the selected recording based on the sample values and the number and length of tracks of the recordings represented in the database and the selected recording (section 3, tree based template generation).

As per claim 39, Foote teaches the at least one computer program of claim 33, further comprising receiving a query to search for a match between the selected recording and the records in the database, the query including the number of tracks and the length information for the selected recording (section 3, tree based template generation).

Response to Arguments

5. Applicant's arguments with respect to claims 1-46 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hurtado et al., (6,611,812) teach secure electronic content distribution on CDs and DVDs.

Roberts et al., (6,230,207) teach network delivery of interactive entertainment synchronized to playback of audio recordings.

Scherf et al., (6,061,680) teach a method and system for finding approximate matches in database.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vijay B. Chawan whose telephone number is (571) 272-7601. The examiner can normally be reached on Monday Through Friday 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on (571) 272-7602. The fax phone

number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vijay B. Chawan
Primary Examiner
Art Unit 2654

vbc
10/3/05

VIJAY CHAWAN
PRIMARY EXAMINER